

§ 256.31 How does FMS compute interest on payments?

FMS computes interest according to the terms of the statute that waives sovereign immunity for interest to be awarded against the Federal government. The statute that allows interest must be cited on the appropriate Judgment Fund form.

§ 256.32 What documentation must be submitted to the Judgment Fund Branch to preserve the right to seek interest under 31 U.S.C. 1304(b) in a case where the government has taken an appeal?

31 U.S.C. 1304(b) specifies that a “transcript of the judgment” must be filed with the Secretary of the Treasury. This means that a copy of the judgment must be filed with the Judgment Fund Branch for interest to accrue on a judgment of a federal district court, the Court of Appeals for the Federal Circuit, or the United States Court of Federal Claims. By practice, the successful plaintiff files a copy of the judgment. Whoever submits the judgment should include a cover letter explaining that it is being submitted to preserve interest rights under 31 U.S.C. 1304. A copy of the judgment and cover letter must be sent to the Financial Management Service, Judgment Fund Branch, at the address indicated on the Judgment Fund Web site at <http://www.fms.treas.gov/judgefund>.

§ 256.33 For what period of time is interest computed under 31 U.S.C. 1304(b)?

Interest is computed from the date that FMS receives the copy of the judgment until the date preceding the appellate court’s affirmative ruling. If the United States files a Notice of Appeal which it later withdraws, interest is paid on the award through the date before the withdrawal of the Notice of Appeal.

§ 256.34 Does the Judgment Fund pay all litigation costs?

FMS certifies for payment only those costs that are enumerated in the cost statute, 28 U.S.C. 1920, or as set forth under a statute that specifically governs payment of the award.

Subpart E—Reimbursements to the Judgment Fund**§ 256.40 When must an agency reimburse the Judgment Fund?**

Agencies are required to reimburse the Judgment Fund for payments made pursuant to the Contract Disputes Act (CDA), 41 U.S.C. 612, and payments made pursuant to the Notification and Federal Employees Antidiscrimination and Retaliation Act of 2002 (No FEAR), 5 U.S.C. 2301 note. The TFM, available on the Judgment Fund Web site at <http://www.fms.treas.gov/judgefund>, contains more information about how FMS bills agencies and collects such reimbursements.

§ 256.41 When is reimbursement due for CDA and No FEAR payments?

Reimbursement for a CDA or No FEAR payment should be made promptly upon notification from FMS of the amount due. If the agency is unable to timely reimburse FMS, the agency must contact FMS to establish a reimbursement plan. Under Office of Personnel Management (OPM) regulations, No FEAR reimbursements or payment reimbursement plans must be made within 45 days of the request for reimbursement. See 5 CFR part 724. Agencies that do not meet this requirement will be listed on FMS’s public Web site.

Subpart F—Additional Provisions**§ 256.50 How does FMS process back pay awards?**

The submitting agency may request one of two methods to process back pay awards.

(a) One method has three parts. The first part is a payment of net back pay (and interest if authorized), which is sent to the plaintiff or to the plaintiff’s attorney, as directed by the submitting agency. The second part is a payment to the agency of deductions from the net back pay. The third part is a payment of attorney fees, which is sent directly to the attorney.

(b) Under the second method, FMS pays the entire back pay award to the agency out of whose actions the claim arose. The agency then issues amounts representing back pay (and interest if